

201704011
Kyle Riegel

A Warrant Section team went to a multi-family house in Mount Vernon that a person with an open warrant had previously used as her address. The officers entered the building, and then into one of the units. The woman they were looking for had previously lived in the unit but had left. The officers spoke to the woman's ex-boyfriend and his teenage son, each of whom confirmed they had not seen the woman.

While two of the officers conducted the search acknowledged they had entered the apartment, and the investigation consisted of whether they had been given consent, PO Riegel testified that they had not entered the apartment at all, but had spoken with the boy and his father at the doorway of the apartment.

The CCRB found that all three officers had improperly entered the apartment, and that PO Riegel had made a false material statement when he stated they had not entered.

The NYPD disciplined the officers by giving them formalized training.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gabriella Carpenter	Team: Squad #13	CCRB Case #: 201704011	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/19/2017 6:50 AM	Location of Incident: [REDACTED]	Precinct: 105	18 Mo. SOL 11/19/2018	EO SOL 11/19/2018	
Date/Time CV Reported Fri, 05/19/2017 4:49 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 05/19/2017 4:49 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT2 John Comer	02091	§ 87(2)(b)	WARRSEC
2. POM Kyle Riegel	20868	§ 87(2)(b)	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Spyros Karellas	06737	§ 87(2)(b)	105 DET
2. DT3 Kevin Pecorella	03245	§ 87(2)(b)	WARRSEC
3. DT3 Ryan Dunn	6727	§ 87(2)(b)	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A . DT2 John Comer	Abuse of Authority: Det. John Comer entered § 87(2)(b) in Mount Vernon.	A . § 87(2)(g)
B . POM Kyle Riegel	Abuse of Authority: PO Kyle Riegel entered § 87(2)(b) in Mount Vernon.	B . § 87(2)(g)
C . DT2 John Comer	Abuse of Authority: Det. John Comer damaged § 87(2)(b)'s property.	C . § 87(2)(g)
D . POM Kyle Riegel	Abuse of Authority: PO Kyle Riegel damaged § 87(2)(b)'s property.	D . § 87(2)(g)
E . POM Kyle Riegel	Other: There is evidence suggesting PO Kyle Riegel provided a false official statement in violation of PG 203-08.	E . § 87(2)(g)

Case Summary

§ 87(2)(b) filed a complaint with the CCRB via the Call Processing System on May 19, 2017.

On May 19, 2017, at approximately 6:50 a.m., Police Officer Kyle Riegel and Detective John Comer of Bronx Narcotics entered § 87(2)(b)'s apartment, located at § 87(2)(b) in Mount Vernon, and opened § 87(2)(b)'s bedroom door (**allegations A and B**). The officers showed § 87(2)(b) a photo of his ex-girlfriend, § 87(2)(b) and asked if he knew her. § 87(2)(b) said that § 87(2)(b) had moved out and asked how they got into the apartment. The officers told him that they came in because there was a gas leak. The officers left without going anywhere else in the apartment. After they left, § 87(2)(b) noticed that the door to his apartment was damaged and no longer stays closed (**allegations C and D**). There is evidence to suggest that PO Riegel made a false official statement that the officers did not enter the apartment (**allegation E**).

An APU attorney was consulted on this case in regard to the entry allegations.

Mediation, Civil and Criminal Histories

- Mediation was not offered as § 87(2)(b) stated that he was planning to file a lawsuit against the NYPD.
- § 87(2)(b) has not been convicted of any crimes in the last ten years.
- This report was submitted pending a FOIL request sent to the comptroller's office on July 27, 2017 for any notice of claim filed in regard to this incident.

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- Det. Comer has been a member of the service for twenty-three years and has had three other CCRB allegations pled against him in two cases.
- PO Riegel has been a member of the service for five years and has not had any other CCRB allegations pled against him.

Potential Issues

- § 87(2)(b) and § 87(2)(b) provided phone statements but declined to schedule interviews. § 87(2)(b) was not interviewed as he was asleep during the incident.
- § 87(2)(b) has a camera outside his door but he initially refused to provide the footage then stated later that it had been deleted.

Findings and Recommendations

Allegation A: Abuse of Authority: Det. John Comer entered § 87(2)(b) in Mount Vernon.

Allegation B: Abuse of Authority: PO Kyle Riegel entered § 87(2)(b) in Mount Vernon.

An APU attorney was consulted on these allegations.

§ 87(2)(b) testified that he was at home sleeping with his girlfriend, § 87(2)(b) at § 87(2)(b) in Mount Vernon when he was awoken by three NYPD officers in plainclothes (BR 01 and BR 02). His two children were also home sleeping at the time. § 87(2)(b) lives in a house with two units, and he lives in the downstairs unit. The first door to the house may have been unlocked but the door to his unit was locked. After the officers pushed § 87(2)(b)'s bedroom door open, § 87(2)(b) asked them what they were doing there and the officers showed him a photo of § 87(2)(b) his ex-girlfriend. § 87(2)(b) told the officers that she was not there and that she had moved. § 87(2)(b) asked how the officers got into this house, and one of the officers responded that they smelled a gas leak so they came in because it could be dangerous if he had young children in the house. After speaking with § 87(2)(b) for two or three minutes, the officers left. § 87(2)(b) noticed after the officers left that mail was scattered on the bar in his living room and it appeared as though the officers had gone through it. There are two doors to § 87(2)(b)'s apartment from the public hallway: one door leads to the living room and one door leads to the hallway where the bedrooms are located (BR 11). § 87(2)(b) knew that the officers entered the apartment through the door to the hallway because it was damaged after the incident.

§ 87(2)(b) corroborated § 87(2)(b)'s testimony with the distinction that § 87(2)(b) got out of bed and went to the hallway to speak to the officers so she was unable to hear any of the conversation, including when the officers mentioned smelling gas (BR 03). She corroborated his statement that mail appeared to have been tampered with.

§ 87(2)(b) one of § 87(2)(b)'s sons, testified that he was woken up by a knock at the door of the bedroom that he shares with his brother, § 87(2)(b) (BR 04). § 87(2)(b) opened his door and saw that three officers were in the apartment. § 87(2)(b) had checked that the door to the apartment was locked the night before and he did not know how the officers got into the apartment but the door was not damaged. One of the officers showed him a photograph of the woman they were looking for but he did not recognize her. The officer told § 87(2)(b) that he smelled gas in the apartment, but § 87(2)(b) did not smell it. The officer asked if there was anyone else in the apartment so § 87(2)(b) knocked on his father's door and then went back to his bedroom. § 87(2)(b) slept through the incident.

Det. Comer testified that he, PO Riegel, Det. Dunn, and Det. Pecorella traveled to Mount Vernon to find § 87(2)(b) for whom there was a probable cause I-card for grand larceny (BR 05). She had used § 87(2)(b)'s address in Mount Vernon on multiple arrest reports and a job application. When they arrived, he and PO Riegel walked onto the porch of § 87(2)(b)'s house and saw that the front door was wide open, which usually indicates there is a problem inside like an ongoing burglary. They could see a hallway with multiple mailboxes on the wall through the open door, so they knew that the building contained apartments; after they walked into the house, Det. Comer checked the mailboxes to see which § 87(2)(b) lived in but did not see her name. Det. Comer knocked on a door to the right but no one answered. Farther down the hallway, another apartment door was cracked open, so Det. Comer knocked and announced that the NYPD was there. A boy who looked about 15 years old came to the door and Det. Comer told him that he was there from the NYPD warrant section. He showed the boy a photo of § 87(2)(b) and explained that she had used their address but the boy said that he did not know who she was. Det. Comer asked the boy if he could speak to an adult. The boy told the officers they could come in and walked down the hall in the apartment with them to his father's door. The boy knocked on the door and then went back to his bedroom. § 87(2)(b) opened the door and Det. Comer explained to him that he was from the NYPD warrant squad and was looking for § 87(2)(b). Det. Comer showed § 87(2)(b) a photo of § 87(2)(b) but § 87(2)(b) said that he did not know who she was.

While they were speaking, Det. Comer saw § 87(2)(b) sit up in bed through the open door behind him. Det. Comer asked whether that was § 87(2)(b) and § 87(2)(b) said no. Det. Comer told § 87(2)(b) that something smelled like gas. § 87(2)(b) said that it smelled like that sometimes and that he was going to talk to the landlord. § 87(2)(b) went back into his bedroom and the officers left. They did not open or move anything in the apartment, nor did they look through any mail.

PO Riegel testified that after they arrived at § 87(2)(b)'s house, he walked around to the side of the house and Det. Comer called to him that the door was open and that they were going to go in (BR 06). As they walked in, PO Riegel could see that there were multiple mailboxes on the wall and he smelled gas. There were two doors in the hallway on the first floor. Det. Comer knocked on one of the doors, which was closed, and a black teenage boy, 13 or 14 years old, opened the door. Det. Comer showed him a photo of § 87(2)(b) but the boy said that he did not recognize her. Det. Comer asked if anyone else was home and the boy said that his parents were through the other door in the hallway, and then shut the door. The officers did not ask if they could enter the apartment and the boy did not tell them they could come in. The officers walked to the other door in the hallway, which was for the same apartment but a different room, and Det. Comer knocked and announced that they were police officers. § 87(2)(b) opened the door and Det. Comer showed him the photo of § 87(2)(b) but § 87(2)(b) also said that he did not know her. The officers saw § 87(2)(b) in bed through the door and Det. Comer asked if that was § 87(2)(b) § 87(2)(b) said no. Det. Comer told either § 87(2)(b) or the boy that it smelled like gas inside and that they should get that checked out. The officers did not enter the apartment through either door, and spoke to § 87(2)(b) and the boy from the hallway. PO Riegel thought that the hallway that they were standing in was a public area in the house and was not part of the man's apartment.

Det. Dunn and Det. Pecorella testified that they did not enter the house or witness the incident; Det. Dunn was outside the house doing front security and Det. Pecorella was in the van making phone calls for his own investigation (BR 07 and BR 08).

§ 87(2)(b) sent two photos of damage to his door (BR 09). The photos do not show the door not closing properly as § 87(2)(b) and § 87(2)(b) stated, and the damage visible to the door – scratches and chipped paint – appears as though it may have predated the incident.

Though the civilians each testified that three officers entered the apartment, the investigation has credited the officers that only PO Riegel and Det. Comer entered the house because of the officers' consistency.

Officers may enter an apartment with consent, provided that the consent was given voluntarily. *People v. Gonzalez*, 39 N.Y.2d 122 (1976) (BR 10).

PO Riegel testified that he could see § 87(2)(b) in bed through the door behind § 87(2)(b). This suggests that the second door the officers knocked on was § 87(2)(b)'s bedroom door and not a door to the apartment accessible from the public hallway of the building. Per § 87(2)(b)'s description of the layout of his house, in order to knock on § 87(2)(b)'s bedroom door, the officers had to enter § 87(2)(b)'s apartment. Though PO Riegel testified that the hallway that he and Det. Comer were standing in was a public area in the house and was not part of any apartment, the civilians' and Det. Comer's statements indicate that the officers were actually standing in the hallway of § 87(2)(b)'s apartment when they spoke to him. § 87(2)(g)

§ 87(2)(b) testified that he did not encounter the officers until they had already entered the apartment and knocked on his bedroom door; § 87(2)(g)

§ 87(2)(g)
[REDACTED]

Allegation C: Abuse of Authority: Det. John Comer damaged § 87(2)(b)'s property.

Allegation D: Abuse of Authority: PO Kyle Riegel damaged § 87(2)(b)'s property.

§ 87(2)(b) testified that after the incident, the latch on the door that goes in and out when the doorknob is turned was damaged and the door would no longer stay closed. He fixed it by replacing the lock. He provided photos showing scratches and chipped paint on the door, but the photos do not show the damaged latch.

§ 87(2)(b) corroborated § 87(2)(b)'s testimony that the door would not close completely after the incident.

§ 87(2)(b) testified that the door to the apartment was not damaged after the incident. Det. Comer and PO Riegel testified that they did not do anything that could have damaged the door to the apartment, nor did they see any damage to the door. The officers did not force any doors open or do anything that could have damaged a door.

§ 87(2)(g)
[REDACTED]

Allegation E: Other Misconduct: There is evidence suggesting PO Kyle Riegel provided a false official statement in violation of PG 203-08.

§ 87(2)(b) and Det. Comer testified that Det. Comer and PO Riegel entered § 87(2)(b)'s apartment and spoke with § 87(2)(b) in the hallway outside of his bedroom.

PO Riegel testified that the officers never entered § 87(2)(b)'s apartment and spoke to § 87(2)(b) and § 87(2)(b) from the public hallway outside of the apartment.

The intentional making of a false official statement is prohibited, and will be subject to disciplinary action, up to and including dismissal. Patrol Guide Procedure 203-08 (BR 12).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Squad:

Investigator:

Signature

Print

Date

Squad Leader:

Title/Signature

Print

Date

Reviewer:

Title/Signature

Print

Date